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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/608,169	06/30/2000	Takayuki Urata	43890-430	9745

7590 11/20/2002
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Washington, DC 20005-3096

EXAMINER

PATTERSON, MARC A

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 11/20/2002

10

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/608,169

Applicant(s)

URATA ET AL.

Examiner

Marc A Patterson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 October 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 13-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 13-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1 – 6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase ‘evaporated on the surface of the support layer’ is indefinite as its meaning is unclear. The phrase appears to be directed to a method limitation, which is given little patentable weight. The phrases ‘surface side’ and ‘back side’ are indefinite as their meanings are unclear. For purposes of examination, the phrases will be assumed to mean any side. The phrase ‘includes a support layer’ is indefinite as its meaning is unclear. For purposes of examination, the phrase will be assumed to mean ‘comprises a support layer.’ The phrases ‘has a plastic film’ and ‘has a seal layer’ are indefinite, as their meanings are unclear. For purposes of examination, the phrases will be assumed to mean ‘comprises a plastic film’ and ‘comprises a seal layer.’ The phrase ‘formed by junction of the seal layer’ is indefinite, as its meaning is unclear. The phrase also appears to be directed to a method limitation, which is given little patentable weight. The phrase ‘and the laminate film further as a metal foil placed at a position excluding the seal portion’ is indefinite as its meaning is unclear.

3. Claims 3 – 4 and 15 – 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which

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applicant regards as the invention. The term 'includes' is indefinite as its meaning is unclear. For purposes of examination, the term will be assumed to mean 'comprises.'

4. Claims 5 – 6 and 17 – 18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 5 – 6 and 17 – 18 provide for the use of a vacuum heat insulator, but, since the claims do not set forth any steps involved in the method/process, it is unclear what method/process applicant is intending to encompass. A claim is indefinite where it merely recites a use without any active, positive steps delimiting how this use is actually practiced.

Claims 5 – 6 and 17 – 18 are rejected under 35 U.S.C. 101 because the claimed recitation of a use, without setting forth any steps involved in the process, results in an improper definition of a process, i.e., results in a claim which is not a proper process claim under 35 U.S.C. 101. See for example *Ex parte Dunki*, 153 USPQ 678 (Bd.App. 1967) and *Clinical Products, Ltd. v. Brenner*, 255 F. Supp. 131, 149 USPQ 475 (D.D.C. 1966).

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claim 1 – 3 and 13 – 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Awata (U.S. Patent No. 5,866,228).

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With regard to Claims 1 – 3 and 14, Awata discloses a vacuum heat insulator (therefore an insulator for an insulating device; column 2, line 2) comprising a laminate bag (column 4, lines 15 – 23) and an insulating core placed in the laminate bag (calcium silicate; column 4, lines 44 – 49) wherein the inside of the laminate bag is evacuated to vacuum (column 4, lines 44 – 54), the laminate bag is made of a laminate film comprising a support layer, deposition layer placed at the surface of the support layer, protective layer and seal layer (column 4, lines 36 – 43); the deposition layer comprises aluminum (column 4, lines 30 – 35), the laminate bag comprises a seal portion (it is heat sealed; column 4, lines 36 – 43), and the support layer comprises a plastic film having a glass transition point of greater than 87 degrees Celsius (polyethylene terephthalate; column 6, lines 40 – 56).

With regard to Claims 13 and 15, the protective layer comprises polyester (column 4, lines 36 – 43) and Awata teaches polyethylene terephthalate as a layer of the bag (column 6, lines 40 – 56); the claimed aspect of the protective layer comprising a plastic film having a glass transition point of greater than 87 degrees Celsius (polyethylene terephthalate) therefore reads on Awata.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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8. Claims 4 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Awata (U.S. Patent No. 5,866,228) in view of Cheng et al (U.S. Patent No. 4,745,015).

Awata discloses an insulator comprising a plastic film comprising polyethylene terephthalate as discussed above. Awata fails to disclose a film comprising polycarbonate.

Cheng et al teach that polycarbonate is equivalent to polyethylene terephthalate (column 3, lines 7 – 38) for the purpose of making an insulator which is readily molded or shaped (column 3, lines 7 – 38).

It therefore would have been obvious for one of ordinary skill in the art at the time Applicant's invention was made to have provided for polycarbonate in Awata in order to make an insulator which is readily molded or shaped as taught by Cheng et al.

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc Patterson, whose telephone number is (703) 305-3537. The examiner can normally be reached on Monday through Friday from 8:30 AM to 5:00 PM. If attempts to reach the examiner by phone are unsuccessful, the examiner's supervisor, Harold Pyon, can be reached at (703) 308-4251. FAX communications should be sent to (703) 872-9310. FAXs received after 4 P.M. will not be processed until the following business day.

Marc A. Patterson, PhD.

Marc Patterson
Art Unit 1772

[Signature]
HAROLD PYON
SUPERVISORY PATENT EXAMINER
1772

11/18/02